

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIC MONTANEZ,

Plaintiff,

v.

Case No. 2:21-cv-11645

District Judge Terrence G. Berg

Magistrate Judge Kimberly G. Altman

ERNESTO SALINAS, BRANDON
HULL, and AUSTIN MYERS,

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION FOR LEAVE TO TAKE
PLAINTIFF'S DEPOSITION (ECF No. 21)**

I.

This is a civil rights complaint brought under 42 U.S.C. § 1983. Plaintiff Eric Montanez is a prisoner proceeding *pro se* against the three remaining defendants with the Michigan Department of Corrections (MDOC). (ECF Nos. 1, 6). All pretrial matters were referred to the undersigned. (ECF No. 7). Before the Court is the MDOC Defendants' motion for leave under Federal Rule of Civil Procedure 30(a)(2)(B) to take the deposition of Montanez, who is currently incarcerated. (ECF No. 21). For the reasons that follow, the motion will be GRANTED.

II.

Rule 30 provides broad access to persons for depositions; Rule 30(a)(2)(B), however, requires a party to obtain leave of court where, as here, “the deponent is confined in prison.” In determining whether it is appropriate to grant leave to conduct such a deposition, Rule 30(a)(2) provides that “the court must grant leave to the extent consistent with Rule 26(b)(1) and (2)[.]” According to Rule 26(b)(1), the scope of discovery is as follows: “Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” Thus, [t]he “language of Rule 30(a)(2) *requires* the Court to authorize a deposition unless the deponent is seeking privileged, irrelevant, or unnecessarily costly information.” *McGinnis v. Huq*, 2017 WL 1044989, at *1 (E.D. Mich. Mar. 20, 2017) (emphasis in original).

Considering these factors, Defendants’ request to depose Montanez is consistent with the applicable Federal Rules and otherwise appropriate. Accordingly, Defendants’ motion is GRANTED. While it appears that Montanez is currently confined at the Chippewa Correctional Facility in Kincheloe,

Michigan, defendants may depose him at whichever facility he is confined to on the date of the deposition.

SO ORDERED.

Dated: October 20, 2022
Detroit, Michigan

s/Kimberly G. Altman
KIMBERLY G. ALTMAN
United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on October 20, 2022.

s/Julie Owens
CAROLYN CIESLA
Case Manager